

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

DOUGLAS WILLIAM ORMOND, JR.,

Case No. 3:11-CV-814-SU

Petitioner,

FINDINGS AND RECOMMENDATION

v.

JOE DeCAMP,

Respondent.

SULLIVAN, Magistrate Judge.

Petitioner filed this 28 U.S.C. § 2254 habeas corpus action on July 5, 2011 challenging his 2008 state convictions in the Washington County Circuit Court for Assault and Kidnapping. This prompted the court to issue a Scheduling Order calling for an Answer and Response from respondent, and a supporting memorandum from petitioner 60 days thereafter.

Respondent timely filed his Response and argues that most of petitioner's claims are procedurally defaulted, and the claims which are not defaulted do not entitle petitioner to relief on

their merits. Although petitioner's supporting memorandum was due on March 12, 2012, he has neither filed such a brief, nor has he provided any argument to rebut the State's contentions.

An application for a writ of habeas corpus shall not be granted unless petitioner can demonstrate that adjudication of a claim in state court resulted in a decision that was: (1) "contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States;" or (2) "based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding." 28 U.S.C. § 2254(d). Twenty-eight U.S.C. § 2254(d) "preserves authority to issue the writ in cases where there is no possibility fairminded jurists could disagree that the state court's decision conflicts with [the Supreme] Court's precedents. It goes no farther." *Harrington v. Richter*, 131 S.Ct. 770, 786 (2011). Importantly, it is petitioner who is responsible for meeting this substantial burden. *Silva v. Woodford*, 279 F.3d 825, 835 (9th Cir. 2002).

Petitioner has not filed any brief in which he argues the merits of his claims, nor has he addressed any of respondent's arguments as to why relief on the Petition should be denied. Consequently, petitioner has not met his burden in this case. Notwithstanding this failure, the court has reviewed petitioner's claims on the existing record and finds that he is not entitled to

habeas corpus relief. As a result, relief on the Petition should be denied.

RECOMMENDATION

For the reasons identified above, the Petition for Writ of Habeas Corpus (#2) should be DENIED, and a judgment should be entered dismissing this case with prejudice. In addition, the court should decline to issue a Certificate of Appealability on the basis that petitioner has not made a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c)(2).

SCHEDULING ORDER

This Findings and Recommendation will be referred to a district judge. Objections, if any, are due by April 23, 2012. If no objections are filed, then the Findings and Recommendation will go under advisement on that date.

If objections are filed, then a response is due within 14 days after being served with a copy of the objections. When the response is due or filed, whichever date is earlier, the Findings and Recommendation will go under advisement.

IT IS SO ORDERED.

DATED this 4th day of April, 2012.

/s/ Patricia Sullivan
Patricia Sullivan
United States Magistrate Judge